

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN BENTON RAGLAND,

Petitioner,

v.

JASON BENNETT,

Respondent.

Case No. C23-5574-MJP-MLP

ORDER DENYING PETITIONER'S
MOTION FOR EXTENSION OF TIME

This is a federal habeas action brought under 28 U.S.C. § 2254. Petitioner submitted his federal habeas petition to the Court for filing on June 28, 2023, together with a motion seeking an extension of time to file his petition. (*See* dkt. ## 1, 3.) Petitioner's motion for extension of time appears to seek an extension of the statutory one-year limitations period for filing a petition for writ of habeas corpus under § 2254. The Court gleans from Petitioner's motion, and from a brief comment on timeliness contained in Petitioner's petition, that he believes his petition may be deemed untimely. (*See* dkt. # 1 at 15; dkt. # 3.) Given the limited record before the Court at this juncture, it is unclear whether the timeliness of Petitioner's petition will be an issue in this action. However, even assuming timeliness does prove to be an issue in this case, the issue is not properly before the Court at this time or in this fashion.

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1 The Court first observes that it has no authority to extend the statutory limitations period
2 set forth in 28 U.S.C. § 2244(d)(1) for the filing of a federal habeas petition by a person in
3 custody pursuant to a judgment of a state court. The Court further observes that the statute of
4 limitations is an affirmative defense which is typically raised by the respondent after the petition
5 has been served, and the respondent has had an opportunity to review the state court record and
6 file an answer to the petition.

7 While the Respondent in this action has yet to be served, the Court will issue a service
8 order in conjunction with this Order. Respondent will thereafter have an opportunity to file his
9 answer and assert a statute of limitations defense if he deems it appropriate to do so. Should that
10 occur, Petitioner will have an opportunity to then demonstrate in a response to Respondent's
11 answer that he is entitled to tolling of the limitations period.

12 Based on the foregoing, the Court hereby ORDERS as follows:

13 (1) Petitioner's motion for an extension of time to file his federal habeas petition (dk.
14 # 3) is DENIED.

15 (2) The Clerk is directed to send copies of this Order to Petitioner and to the
16 Honorable Marsha J. Pechman.

17 DATED this 30th day of June, 2023.

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20 MICHELLE L. PETERSON
21 United States Magistrate Judge
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